

2. Bayou Fund LLC was formed in or about early 1996

collectively as "Bayou."

Hedge Funds. The Bayou entities will hereafter be referred to Securities Dealers, acted primarily as a broker for the Bayou Exchange Commission and a member of the National Association of a broker-dealer registered with the United States Securities and from its office in Stamford, Connecticut. Bayou Securities, LLC, (hereafter, collectively referred to as the "Bayou Hedge Funds"), the investment adviser to Bayou Fund LLC and Bayou Fund Ltd. the laws of the Cayman Islands. Bayou Management, LLC served as Connecticut. Bayou Fund Ltd. was a hedge fund organized under Westchester County, New York and, thereafter, Stamford, Fund LLC, was a hedge fund that had its principal office in

1. At all times relevant to this information, Bayou

Relevant Persons And Entities

The United States Attorney charges:

(Conspiracy To Commit Investment Adviser Fraud and Mail Fraud)

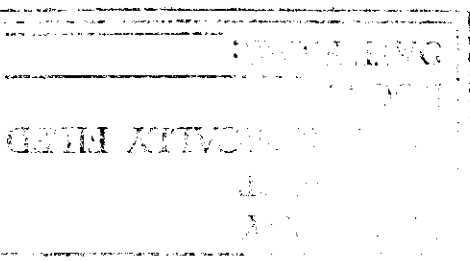
COUNT ONE

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Defendant.
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:
JAMES G. MARQUEZ,
:
:
-v-
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:
UNITED STATES OF AMERICA
:
:
-----X

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INFORMATION

06 Cr. 1138



ORIGINAL

following:

Israel and Marino would and did carry out the conspiracy were the

5. Among the means and methods by which MARQUEZ,

Means and Methods of the Conspiracy

things, that contained materially false statements.

disseminating reports and financial statements, among other

Daniel E. Marino perpetrated a scheme to defraud investors by

in Bayou, JAMES G. MARQUEZ, the defendant, Samuel Israel III and

and to lure existing investors into retaining their investments

trading losses. In order to induce investors to invest in Bayou

4. During the relevant time period, Bayou sustained

The Scheme To Defraud

financial operations of Bayou.

Marino was a certified public accountant responsible for the

Bayou. At all times relevant to this information, Daniel E.

responsible for the investment management and operations of

G. MARQUEZ, the defendant, and Samuel Israel III, were

3. At all times relevant to this information, JAMES

securities.

investment strategy of conducting short-term trading of various

sophisticated investors and earning profits by following an

formed for the purpose of obtaining contributions from

Fund Ltd. was formed thereafter. The Bayou Hedge Funds were

by the defendant, JAMES G. MARQUEZ, and Samuel Israel III. Bayou

6. From in or about July 1996 to on or about October

THE CONSPIRACY

Hedge Funds.

Investors to contribute in excess of \$10,000,000 to the Bayou

about October 10, 2001, MARQUEZ, Israel and Marino induced

e. From in or about July 1996 through on or

represented that Richmond Fairfield Associates audited Bayou.

financial statements to be mailed to investors which falsely

pursuant to the plan, MARQUEZ, Israel and Marino caused annual

accounting firm known as Richmond-Fairfield Associates. Also

Marino devised a plan, pursuant to which Marino created a phony

d. In or about early 1999, MARQUEZ, Israel and

known as Richmond-Fairfield Associates.

that Bayou had been audited by a certified public accounting firm

trading; (ii) inflated net asset values, and (iii) certifications

other misrepresentations: (i) inflated rates of return on

financial statements mailed to investors that contained, among

c. MARQUEZ, Israel and Marino had annual

reports and had those reports mailed to investors.

individual investors' inflated accumulated profits in monthly

b. MARQUEZ, Israel and Marino reported

reports and had those reports mailed to investors.

fictional rates of return of the Bayou Hedge Funds in quarterly

a. MARQUEZ, Israel and Marino reported

10, 2001, in the Southern District of New York and elsewhere, JAMES G. MARQUEZ, the defendant, Samuel Israel III and Daniel E. Marino, unlawfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, to wit: (a) investment adviser fraud, in violation of Title 15, United States Code, Sections 80b-6 and 80b-17; and (b) mail fraud, in violation of Title 18, United States Code, Section 1341.

OBJECTS OF THE CONSPIRACY

Investment Adviser Fraud

7. It was a part and object of the conspiracy that JAMES G. MARQUEZ, the defendant, along with Samuel Israel III and Daniel E. Marino, acting as investment advisers with respect to one and more clients and prospective clients in the Bayou Hedge Funds, unlawfully, willfully, and knowingly, by the use of the mails and means and instrumentalities of interstate commerce, directly and indirectly, did (a) employ devices, schemes, and artifices to defraud clients and prospective clients; (b) engage in transactions, practices, and courses of business which operated as a fraud and deceit upon clients and prospective clients; and (c) engage in acts, practices, and courses of business that were fraudulent, deceptive, and manipulative, in violation of Title 15, United States Code, Sections 80b-6 and 80b-17.

- b. At various times between July 1996 and Connecticut. Westchester County, New York and at Bayou's offices in Stamford, securities on behalf of Bayou through computers located in through on or about October 10, 2001, MARQUEZ and Israel traded a. At various times from in or about July 1996 elsewhere:
- others, were committed in the Southern District of New York and the illegal objects thereof, the following overt acts, among 9. In furtherance of said conspiracy and to effect

OVERT ACTS

- Section 1341. matters and things, in violation of Title 18, United States Code, interstate carriers, and did take and receive therefrom such delivered by the Postal Service, and private and commercial depository for mail matter, matters and things to be sent and place and cause to be placed in a post office and authorized and fraudulent pretenses, representations, and promises, did defraud and for obtaining money and property by means of false having devised and intending to devise a scheme and artifice to III and Daniel E. Marino, unlawfully, willfully, and knowingly, that JAMES G. MARQUEZ, the defendant, along with Samuel Israel 8. It was further a part and object of the conspiracy

Mail Fraud

10. As the result of committing the conspiracy offense in violation of Title 18, United States Code, Section 371, alleged in Count One of this Information, JAMES G. MARQUEZ, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense, including but not limited to the following:

FORFEITURE ALLEGATION

(Title 18, United States Code, Section 371).

financial statements.

independent auditor that had audited Bayou and certified its falsely assert that Richmond-Fairfield Associates was an financial statements, MARQUEZ, Israel and Marino had Bayou d. During the relevant time period, in annual

Manhattan.

maintained an office for Richmond-Fairfield Associates in accounting firm named Richmond-Fairfield Associates and devised a plan in which Marino formed a sham certified public c. In or about 1999, MARQUEZ, Israel and Marino

elsewhere.

investors located in the Southern District of New York and monthly reports and annual financial statements mailed to October 10, 2001, MARQUEZ, Israel and Marino had quarterly and/or

(i) 20,000 shares of common stock in KFX Inc., stock certificate No. 7476;

(ii) 20,000 shares of common stock in KFX Inc., stock certificate No. 7477;

(iii) 20,000 shares of common stock in KFX Inc., stock certificate No. 7478;

(iv) 20,000 shares of common stock in KFX Inc., stock certificate No. 7479;

(v) 20,000 shares of common stock in KFX Inc., stock certificate No. 7480;

(vi) 106,454 shares of common stock in Hydrogen, stock certificate No. 640;

(vii) 70,026 shares of common stock in Hydrogen, stock certificate No. 554;

(viii) 550,000 warrants to purchase common stock of ThermoEnergy Corp, identification no. W05-CW02, expiring on 07/15/08;

(ix) 341,211 warrants to purchase common stock of ThermoEnergy Corp, identification no. W05-PA3, expiring on 07/15/08;

(x) 2004.3743 shares of series B-2 convertible participating preferred stock of Integrated Fuel Cell Technology; and,

(xi) all proceeds of the sale of the property at

1621 Gaspar Drive South, Boca Grande Isles, PB 29, PG6,
Lot #4, Boca Grande, Florida 33921.

Substitute Asset Provision

If any of the above-described forfeitable property, as
a result of any act or omission of the defendant:

(1) cannot be located upon the exercise of due

diligence;

(2) has been transferred or sold to, or deposited with,

a third person;

(3) has been placed beyond the jurisdiction of the

Court;

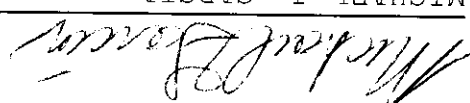
(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be

subdivided without difficulty;

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b)
and 21 U.S.C. § 853(p), to seek forfeiture of any other property of
said defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 981, 371, and 1341,
and Title 28, United States Code, Section 2461(c)).


MICHAEL J. GARCIA
United States Attorney